

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

199600843-3

Issuance Date:

April 17, 2006

Stream: OHIO RIVER

Closing Date:

May 16, 2006

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070 Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

SECTION 10: The Corps is directed by Congress under Section 10 of the River and Harbors Act of 1899 to grant authorization prior to the accomplishment of any work in or over navigable waters of the United States, or which affects the course, location, condition or capacity of such waters.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 10 of the Rivers and Harbors Act of 1899. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for the following application, if required:

APPLICANT: Shelly Materials Inc.
80 Park Drive
Post Office Box 266
Thornville, Ohio 43076

LOCATION: The proposed project is located along the right descending bank of the Ohio River at milepoint 215.5 in Portland, Meigs County, Ohio.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to construct, operate, and maintain a sand and gravel loading facility at this location. The applicant originally received an individual Section 404 and Section 10 permit from this office on September 20, 1999 for construction of the facility. The permit authorized installation of 12 steel sheet-pile mooring cells, installation of a barge loading dock and conveyor system, and the installation of rock channel protection along 510' of riverbank. The applicant has indicated construction activities were not completed prior to the December 2004 expiration date. The applicant installed the 12 mooring cells in December 2000 but has not installed the loading dock/conveyor system and the rock channel protection. The applicant is now seeking authorization to complete construction activities at the site. The applicant currently operates a sand and gravel mining operation **in upland** areas immediately adjacent to the river at this location. The purpose of the proposal is to load and gravel products for shipment to commercial and industrial users of the product.

Work associated with the proposal would consist of the installation of a loading dock and associated conveyor system. The loading dock would measure 12'(h) x 35'(w) x 195'(l) and would be moored to an existing mooring cell. The conveyor system would extend 42' from the shoreline to the loading dock, where it would be mounted and secured. A small storage deck would also be mounted to the loading dock. The loading dock would extend 80' from the normal pool shoreline. A total of nine barges (3 wide x 3 long) could be moored to the loading dock. The maximum riverward extension at this location would be 232' from the normal pool shoreline. The empty fleet, located upstream of the loading dock, would moor nine barges and extend 223' from the normal pool shoreline. The loaded fleet, located downstream of the loading dock, would moor nine barges and extend 206' from the normal pool shoreline. Rock channel protection would be placed along 510' of riverbank immediately behind the work barge.

Plans of the proposed work are attached to this notice.

A section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the Ohio Environmental Protection Agency.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined that one site eligible for the Register, the Buffington Island Battlefield Site, is located within the project area. The applicant, in coordination with this office, the Ohio State Historic Preservation Office (OSHPO), the Advisory Counsel of Historic Preservation (ACHP), has developed a Memorandum of Agreement (MOA) entitled "Revised and Amended Memorandum of Agreement Pursuant to Section 106 of the National Historic Preservation Act – Barge

Docking and Loading Facility – Lebanon Township, Meigs County, Ohio”. The MOA, dated May 2, 2000, addresses mitigative measures for impacts to the Buffington Island Battlefield. A copy of this public notice will be furnished to the OHSPO for their review. Comments concerning archeological sensitivity of the project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species: Indiana bat (E), pink mucket pearly mussel (E), fanshell mussel (E), and sheepnose mussel (E). The Huntington District coordinated the proposal extensively with the United States Fish and Wildlife Service, Elkins WV Field Office, during the initial review of the proposal. The applicant prepared a Biological Assessment (BA) which concluded the construction and operation of the facility is not likely to adversely effect any federally listed species or their critical habitat. The USFWS concurred with this finding for the Indiana bat and pink mucket pearly mussel but did not concur with this finding for the fanshell mussel. As a result, USFWS provided a Biological Opinion (BO) for the fanshell mussel and issued an Incidental Take Statement for the species on August 18, 1999. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

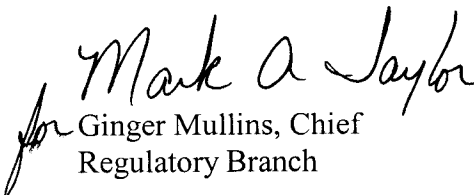
PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

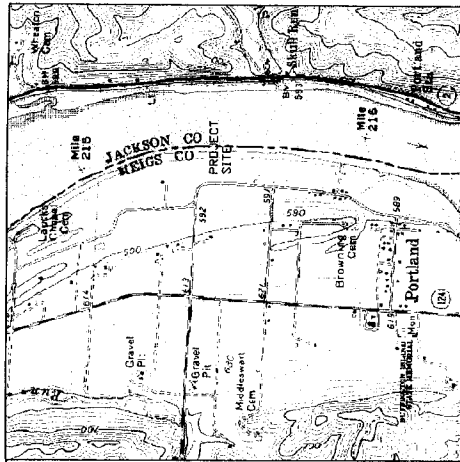
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Kimberly Courts-Brown, Regulatory Project Manager
North Regulatory Section, CELRH-OR-FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Kimberly Courts-Brown of the North Regulatory Section at 304-399-5210.


for Ginger Mullins, Chief
Regulatory Branch

(O, WV)



SHELLY MATERIALS, INC.

SITE MAP AND PLAN VIEW

ATTACHMENT FOR 33 CFR 325
APPLICATION FOR DEPARTMENT
OF THE ARMY PERMIT

SCALE: 1"= 400'

NOTES:
APPROXIMATE TOP OF BANK ELEVATION: 597'
APPROXIMATE TO OF BANK ELEVATION: 562'
APPROXIMATE ELEVATION OF PLANT AREA: 588'

DRAWN BY: SCOTT WILSON
DATE: 3/20/04
SCALE: 1"= 400'

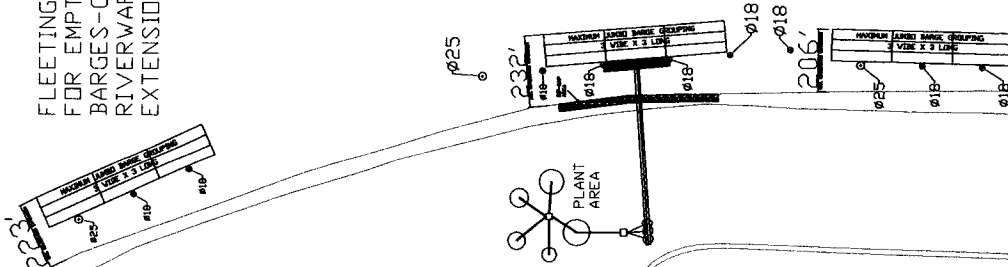


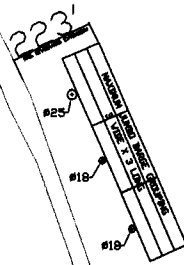
80 PARK DRIVE
P.O. BOX 266
THORNVILLE, OHIO 43076
PHONE: 740.246.6315
FAX: 740.246.4715

FLEETING AREA
FOR EMPTY
BARGES-CELLS MAX.
RIVERWARD
EXTENSION-147'

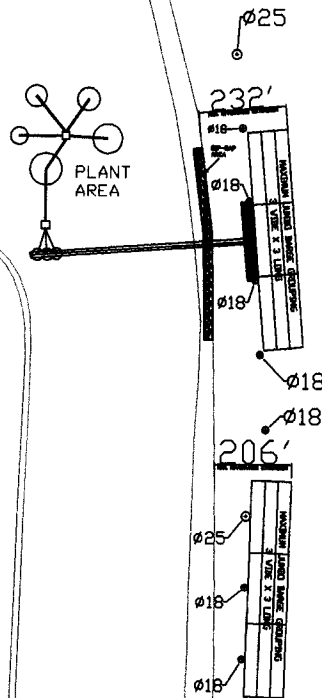
OHIO RIVER MILE 215.5 (+/-)
RIGHT DESCENDING BANK

FLEETING AREA
FOR LOADED
BARGES-CELLS
MAX. RIVERWARD
EXTENSION-97'



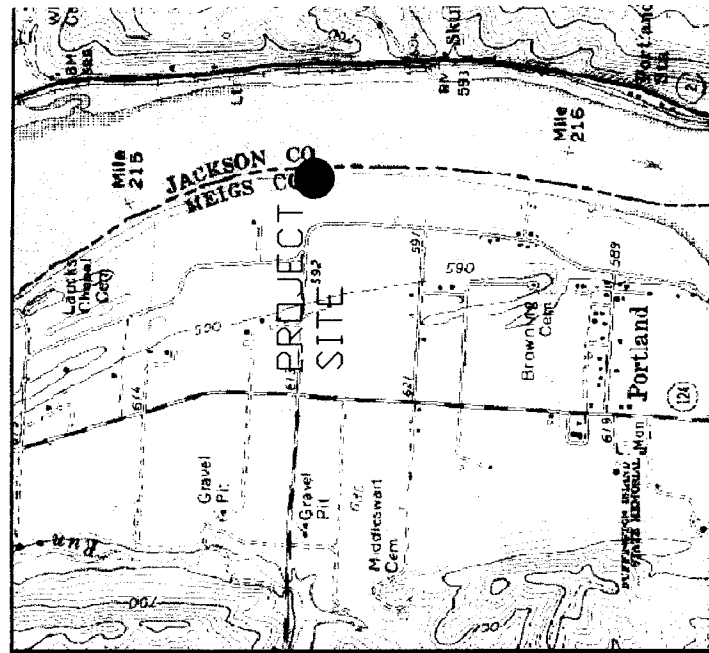
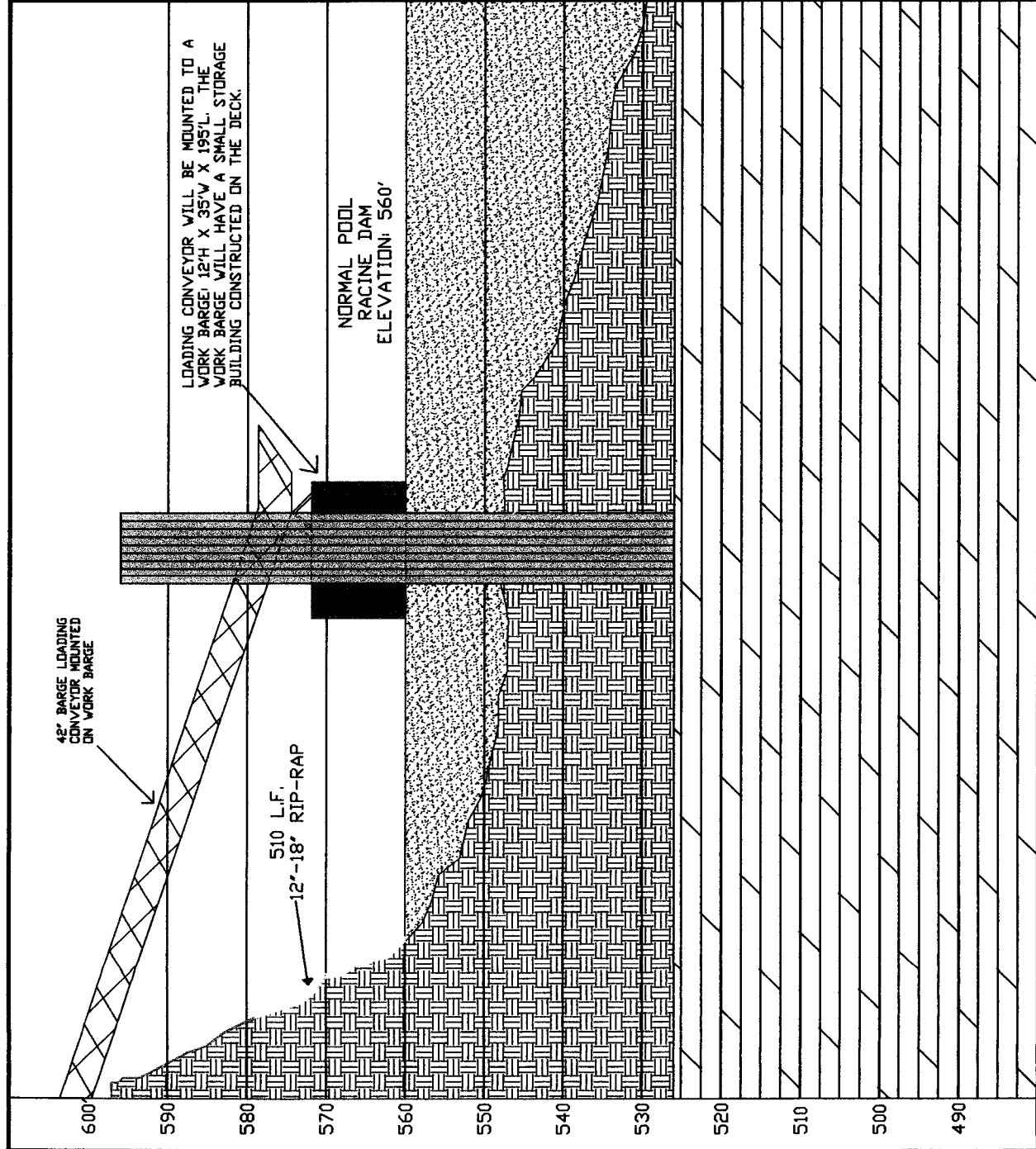


FLEETING AREA
FOR EMPTY
BARGES-CELLS MAX.
RIVERWARD
EXTENSION-147'



DHID RIVER MILE 215.5 (+/-)
RIGHT DESCENDING BANK

FLEETING AREA
FOR LOADED
BARGES-CELLS
MAX. RIVERWARD
EXTENSION-97'



SHELLY MATERIALS, INC.

CROSS SECTION VIEW

DHIO RIVER MILE MARKER 215.5 (+/-)

ATTACHMENT FOR 33 CFR 325 APPLICATION FOR
DEPARTMENT OF THE ARMY PERMIT

DRAWN BY:	DATE:	SCALE:
SCOTT WILSON	9/29/05	VERTICAL: 1"= 2' HORIZONTAL: 1"=
	REVISED: 3.21.06	

SHELLY
MATERIALS, INC.

80 PARK DRIVE
P.O. BOX 266
THORNVILLE, OHIO 43076
PHONE: 740.246.6315
FAX: 740.246.4715